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STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES
BERT L. COLE, Commissioner of Public Lands

COMMISSIONER OF PUBLIC LANDS

Agreement No. 37928

THIS AGREEMENT, made and entered into this 24th day of June, 1975, by and between CASCADE NATURAL GAS CORPORATION, herein called the "Grantee," and the STATE OF WASHINGTON, acting by and through the Department of Natural Resources, herein called the "State," WITNESSETH:

The State, for and in consideration of the terms and conditions specified herein, hereby grants and conveys to the Grantee, its successors and assigns, an easement for right of way for the construction, operation, use and maintenance of a Cathodic Protection Groundbed upon, over and across the following described lands in Kitsap County, Washington, to wit:

That portion of the harbor area and bed of Port Washington Narrows, owned by the State of Washington, situate in front of Government Lot 7, Section 11, Township 24 North, Range 1 East, W.M., included within the limits of a strip 20 feet in width having 10 feet of such width on each side of the following described centerline:

Commencing at the southwest section corner of said Section 11, and running thence S 88° 54' 11" W 1,771.86 feet along the south line of said Section 11, thence N 01° 19' 11" E 54.73 feet to the north line of the supplemental plat of Bay View Garden Tracts as recorded in Volume 5 of Plats Page 19, records of Kitsap County, Washington, and the true point of beginning, continuing thence N 01° 19' 11" E 14.67 feet to the balanced government meander line, continuing thence N 01° 19' 11" E 2.03 feet to the inner harbor line, continuing thence N 01° 19' 11" E 217.09 feet to the outer harbor line continuing thence N 01° 19' 11" E 295.88 feet to a point in the bed of Port Washington Narrows and the terminus of this centerline description, containing 0.24 acre as shown on the regulation plat thereof on file in the office of the Commissioner of Public Lands, at Olympia, Washington.

Consideration

The consideration paid by the Grantee to the State is as follows:

\$710.00

Assignment

This Agreement, or any of the rights granted herein, shall not be assigned without prior written consent of the State, except that said rights granted herein may be used by any employee, contractor, or representative of the Grantee, hereinafter collectively referred to as "Permittee," while engaged in the Grantee's operations.

Term

The term of this Agreement shall be for the period this easement is used for the purposes specified herein; provided said tract shall automatically revert to the State, or its successors and assigns, within sixty (60) days of receipt of a notice from the Grantee, or its assigns, that the easement over the said tract of land is no longer being used for the purposes specified herein. Upon request, said notice given by the Grantee, or its assigns, will be in the form of a recordable instrument. The Grantee, or its assigns, may, at its election, remove any salvageable material from said tract within sixty (60) days after such notice of nonuse has been given to the State or its assigns.

OLYMPIA COPY

In the event that any portion of the right of way hereinbefore described is not used by the Grantee, its successors or assigns, for the purpose for which it was granted, within a construction phase period of five (5) years, the rights of the Grantee within said portion of the right of way shall revert to the State, its successors or assigns; and said portion of the right of way shall be freed from the easement as fully and completely as if this Agreement had not been entered into; provided, however, an extension of construction phase time as specified above may be granted upon written request prior to the expiration date of said five (5) year period and upon the terms and conditions as specified by the State. Such terms and conditions shall be limited to the State's right to extend the construction phase period and modify the considerations due the State which shall include, but not be limited to, additional charges for administrative costs and appreciation of land and valuable material.

Construction phase period used herein shall mean the period of time from the effective date of the Agreement to the date of actual use of this facility as contemplated by this Agreement.

Removal of Improvements and Equipment

All improvements, buildings, fixtures and other property erected or permanently affixed upon State lands by the Grantee during the term of said easement, which remain upon said land sixty (60) days from the termination or abandonment of said easement, shall become the property of the State and be considered a part of the land upon which they are located; provided, however, that any time within sixty (60) days after the termination or abandonment of said easement, the Grantee shall be entitled to remove such of said improvements as can be removed without damage to said lands.

All tools, equipment and other property not permanently affixed upon the land by the Grantee during the term of said easement shall remain the property of the Grantee but shall be removed within sixty (60) days after termination or abandonment of said easement.

Reservations to State

State reserves for itself, its successors and assigns, the right at all times for any purpose, to cross and recross at any place on grade or otherwise, and to use said rights of way in a manner that will not unreasonably interfere with the rights granted herein.

The State reserves to itself, its successors and assigns, the right to develop, improve, and utilize the land and natural resources thereon, within the limits of the right of way granted herein, insofar as such reservations are compatible with the Grantee's operation and insofar as such action will not interfere with the rights of the Grantee.

The State may grant to third parties, upon such terms as it chooses, any or all of the rights reserved by it herein; provided that use by such third party shall be subject to the terms and conditions of this easement and shall not unreasonably interfere with the rights granted hereunder.

Compliance with Laws and Regulations

The Grantee shall comply with all applicable laws to the extent that it can legally do so, including all Department of Natural Resources regulations, county and municipal laws, ordinances, or regulations in effect and authorized by law or laws of the State of Washington.

The Grantee shall cause its Permittee to comply with those requirements and conditions set forth hereinafter which are applicable to the Permittee's operation.

Damage and Protection from Damage

Grantee, when using the rights granted herein, shall repair or cause to be repaired, at its sole cost and expense, all damage to improvements on State lands occasioned by it, which is in excess of that which it would cause through normal and prudent use of such rights.

The Grantee's operations hereunder shall be conducted in such a way as to minimize damage to the Harbor Area and Bed of Port Washington Narrows hereinbefore described.

The Grantee shall exercise every necessary means to prevent contamination or pollution of the water as a result of any operation hereunder.

All essential care shall be taken by the Grantee to prevent fuel, oil, grease or other deleterious material from entering the water as a result of any operation on the right of way area. Refuse resulting from use, servicing, repair or abandonment of equipment shall be removed, buried or otherwise disposed.

All legal subdivision survey corners and witness objects are to be preserved. If such are destroyed or disturbed, the Grantee shall re-establish same in accordance with the U. S. General Land Office standards at his own expense. Those corners that must be necessarily disturbed or destroyed in process of construction must be adequately referenced prior to removal of the corner and/or witness object. The Grantee shall record these references in the respective offices of the local county engineer and the Commissioner of Public Lands.

Condition of Premises and Liability

The premises have been inspected by the Grantee and are accepted in their present condition. Grantee agrees to defend and hold the State, its agents and employees harmless from any and all claims, costs, damages or expenses of any nature whatsoever suffered or alleged to be suffered on the premises or arising out of operations on the premises.

The Grantee shall so place, protect and/or bury said Cathodic Groundbed Protection so as to allow the unobstructed movement of any equipment or materials across the surface of the right of way and shall install said Cathodic Groundbed Protection at such depth as to not interfere with the normal and usual use of the land.

The Grantee shall mark the location of said buried Cathodic Groundbed Protection with painted metal posts and signs placed at the approximate beginning and termination points of the right of way. Said signs shall identify the installation as a buried Cathodic Groundbed Protection and shall designate ownership of the installation.

Operating Specifications

In the exercise of the rights granted by this agreement, the Grantee agrees to abide by the State's Resource Management Operating Specifications in effect at the time of execution of this agreement. Subsequent changes in specifications necessary to reasonably protect soil and water will be mutually agreed upon. Costs for such subsequent changes will be borne by the Grantee.

If the two parties fail to agree as to the changes in specifications necessary, a three man committee will be formed. Said committee to be made up of one member appointed by the Grantee, one member appointed by the State and one member to be appointed by the two aforementioned. The decision of the committee will be final and binding on all parties.

Notice of Noncompliance

The State shall notify the Grantee by United States mail, addressed to the address shown on the application for this easement on file in the office of the Commissioner of Public Lands in Olympia, Washington, of any instance of noncompliance by the Grantee, its employees, permittees, contractors or subcontractors with any of the terms and conditions hereof. Such notice will specifically identify the manner of noncompliance herewith.

In the event the Grantee does not undertake, or cause to be undertaken, remedial action within fifteen (15) days following receipt of said notice, the State, acting by and through its Area Manager at Enumclaw, Washington, may suspend the Grantee's operations until such time as effective remedial action is taken.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as below subscribed.

Dated this 24th day of June, 1975.

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES

By Bert L. Cole
BERT L. COLE
Commissioner of Public Lands

CASCADE NATURAL GAS CORPORATION

By O. M. Jones
O. M. JONES, President

By Richard J. Overby
RICHARD J. OVERBY, Title
Assistant Secretary

P. O. Box 24464
Seattle, WA 98124

App. No. 37928
wsp

jsk
R. C. Cunningham
jsk

CNG 317-3
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CASCADE NATURAL GAS CORPORATION
CORPORATE ACKNOWLEDGMENT

STATE OF Washington } ss.
County of King

On this _____ day of _____, A. D. 19____, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn personally appeared O. M. Jones and Richard J. Overby to me known to be the President and Assistant Secretary, respectively, of CASCADE NATURAL GAS CORPORATION, a Washington corporation the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute the said instrument and that the seal affixed is the corporate seal of said corporation.


WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

Arthur J. Spurling
Notary Public in and for the State of Washington
residing at Federal Way

STATE OF WASHINGTON)
) ss
COUNTY OF THURSTON

On this 23rd day of July, 19 75, before me personally appeared BERT L. COLE, to me known to be the Commissioner of Public Lands, and ex officio administrator of the Department of Natural Resources of the State of Washington, the Department that executed the within and foregoing instrument on behalf of the State of Washington, and acknowledged said instrument to be the free and voluntary act and deed of the State of Washington for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument and that the seal affixed is the official seal of the Commissioner of Public Lands for the State of Washington.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year set forth above.


Notary Public in and for the State of
Washington, residing at Olympia.